

Darin Gatti

Darin Gatti

1 IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

2 - - -  
3 ROBERT HOLTON :  
4 v. :  
5 BOBBY HENON, et al. : NO. 18-2228  
6

7 August 6, 2021  
8 - - -

9 Oral deposition of DARIN  
10 GATTI, was held at CITY OF PHILADELPHIA  
11 LAW DEPARTMENT, 1515 Arch Street, One  
12 Parkway Building, 14th Floor,  
13 Philadelphia, Pennsylvania, commencing at  
14 10:30 a.m., on the above date, before  
15 Emily Andreasen, a Court Reporter and  
16 Notary Public for the Commonwealth of  
17 Pennsylvania.  
18  
19  
20  
21  
22  
23

24 GOLKOW LITIGATION SERVICES  
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1 I N D E X  
2 - - -

3  
4 WITNESS PAGE  
5 DARIN GATTI  
6 By Mr. Durham 4  
7  
8  
9

10 E X H I B I T S  
11 - - -

12 NO. DESCRIPTION PAGE  
13 Gatti A Google Maps 52  
Image - 4094 Richmond  
14 09/2018  
15 Gatti B Google Maps 52  
Image - 4085 Richmond  
16 09/2014  
17 Gatti C Google Maps 52  
Image - 4094 Richmond  
18 11/2018  
19 Gatti D Google Maps 52  
Image - 4085 Richmond  
20 08/2019  
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1 (It is hereby stipulated and  
2 agreed by and between counsel for  
3 the respective parties that  
4 signing, sealing, certification,  
5 and filing are waived; and that  
6 all objections, except as to the  
7 form of the question, are reserved  
8 until time of the trial.)  
9 - - -

10 DARIN GATTI, after having  
11 been duly sworn, was examined and  
12 testified as follows:  
13 - - -

14 EXAMINATION  
15 - - -

16 BY MR. DURHAM:

17 Q. Mr. Gatti, my name is Steve  
18 Durham. I'm the current attorney for  
19 Mr. Robert Holton. You're here today  
20 voluntarily, and I thank your attorney  
21 for having you show up for this  
22 deposition.  
23

24 We've already discussed  
prior to the deposition that you're

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1 familiar with the rules of a deposition,  
2 so I'm not going to go over them with  
3 you. Is that all right with you?

4 A. Correct.

5 Q. Thank you.

6 How long have you been  
7 employed by the City, sir?

8 A. Just about 40 years.

9 Q. And do you recall when you  
10 were first hired?

11 A. In June of 1982.

12 Q. And what position did you  
13 have at that time?

14 A. I started off as a graduate  
15 civil engineer.

16 Q. So -- and where did you  
17 graduate from?

18 A. Drexel University.

19 Q. Okay. And your degree is in  
20 civil engineering?

21 A. Yes.

22 Q. Okay. And your current  
23 position with the City?

24 A. I'm the chief engineer and

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1 president of the Board of Surveyors.

2 Q. Okay. Back in 2018 -- in  
3 October of 2018, to be precise, did you  
4 hold those positions also? Chief --

5 A. Yes.

6 Q. Chief engineer and president  
7 of the Board of Surveyors?

8 A. Yes.

9 Q. And what city department are  
10 you in? I saw something that said the  
11 Streets Department?

12 A. Yes. Streets Department,  
13 yes.

14 Q. And is the Streets  
15 Department a part of any other city  
16 department like L&I or any of the other  
17 city agencies?

18 A. No. The Streets Department  
19 is a standalone department.

20 Q. And what is the general duty  
21 of the chief engineer of the Streets  
22 Department?

23 A. My duties -- I oversee  
24 surveys, design and construction for the

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1 Streets Department.

2 So my role is quite varied.  
3 I get involved in all kinds of aspects  
4 from project management to managing  
5 design projects, the Streets Department  
6 transportation engineers, Streets  
7 Department bridge engineers all report to  
8 me. Our construction unit that manages  
9 all of our city street construction is  
10 under my guidance, as well as our city  
11 plans unit and five survey districts.

12 The city plans unit and five  
13 surveys districts is the Bureau of  
14 Surveys. They work closely with the  
15 Records Department and as well as  
16 everyone else in the Streets Department  
17 on managing the lines of the streets,  
18 property surveys, they do property line  
19 dispute resolution.

20 So we get involved in many  
21 things. And I work with other  
22 departments, Parks & Rec. I work very  
23 closely with Licenses & Inspections.  
24 Whenever a -- there's a violation from

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1 Licenses & Inspections and there's a  
2 question about the responsibility, say,  
3 of a retaining wall or a sidewalk, my  
4 survey districts do determinations of  
5 responsibility. They do property  
6 stakeouts for the general public as well  
7 as doing subdivision reviews and  
8 subdivision plans.

9 Q. You're familiar with Mr.  
10 Holton's property, the one at 4085  
11 Richmond Street here in Philadelphia?

12 A. He doesn't have a property  
13 at 4085 Richmond Street.

14 Q. Where is his property  
15 located?

16 A. His property's located on  
17 Delaware Avenue. He has two parcels in  
18 his current deed. One is on Delaware  
19 Avenue and the other one is directly  
20 behind that on what's commonly known as  
21 Carbon Street but is actually a railroad  
22 right-of-way.

23 Q. Does his property that you  
24 just described have two addresses? One

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1 on Delaware Avenue and one on Richmond  
2 Street?

3 A. Currently one of them has --  
4 is the OPA has just designated one of  
5 them as the real property as being a rear  
6 address on Richmond Street, which means  
7 it does not actually front on Richmond  
8 Street, but it's a rear address.

9 Q. So -- and that rear address  
10 would be 4085; am I correct?

11 A. Not sure what the actual  
12 address is. OPA just designated that  
13 last week.

14 Q. What is OPA?

15 A. The Office of Property  
16 Assessments.

17 Q. I knew you knew it, but I  
18 didn't know it and I'm not sure the court  
19 reporter knew it.

20 A. They're the ones that handle  
21 the tax records. And they just recently  
22 corrected some confusion in property  
23 addresses for Mr. Holton's property that  
24 fronts on Delaware Avenue as well as a

1 Holton's description?

2 A. I actually received an email  
3 from them and that notice was also sent  
4 to Mr. Craig Sopen [ph] who is one of Mr.  
5 Holton's other attorneys.

6 Q. And since you mentioned  
7 Mr. Sopen -- he's involved with the  
8 eminent domain case on Delaware Avenue,  
9 am I correct, when Delaware Avenue was  
10 widened in, I think, 2012?

11 A. Yes.

12 Q. Okay. I'm correct about  
13 that.

14 And Mr. Holton's property  
15 that faces Delaware Avenue, part of that  
16 was taken for the widening of Delaware  
17 Avenue; am I correct?

18 A. No.

19 Q. The 5,377 square feet that  
20 ended up belonging to Mr. Holton, you're  
21 saying no? Can you explain to me why  
22 you're saying no?

23 A. That property that was  
24 condoned was not his property at the

1 couple other properties in the area that  
2 had misleading addresses.

3 Q. And you would consider 4085  
4 Richmond Street to be a misleading  
5 address for Mr. Holton's property?

6 A. Yes.

7 Q. Does OPA report to you?

8 A. No.

9 Q. Okay. Do they work hand in  
10 glove with you?

11 A. Well, we give -- we provide  
12 them information in order to do their  
13 project, their -- you know, they --  
14 they're not the Records Department. They  
15 don't actually handle property records,  
16 but they manage the taxing of properties  
17 and assessing -- you know, assigning  
18 property value -- property references,  
19 you know, the reference numbers that they  
20 use to identify properties, keeping track  
21 of all the parcels, things like that, for  
22 tax purposes.

23 Q. And how did you learn that  
24 they just last week corrected Mr.

1 time. The remainder parcel was  
2 transacted to him by the previous owner.

3 Q. Which was the railroad line?

4 A. Yes. The successor to the  
5 railroad line.

6 But at the time of  
7 condemnation, he was not the owner of  
8 that property.

9 Q. Do you know whether at the  
10 time of condemnation Mr. Holton was using  
11 that portion of the property as ingress  
12 and egress to his entire property, both  
13 the front lot and the back lot?

14 MS. CLAIBORNE: Objection to  
15 form.

16 You can answer.

17 THE WITNESS: To the front  
18 lot, he crossed over that parcel,  
19 not the back lot.

20 BY MR. DURHAM:

21 Q. Was there access to the back  
22 lot to that parcel? If you know.

23 A. At the time of condemnation,  
24 he was illegally using Frankford Creek

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1 Right-of-Way as part of his access --  
 2 well, actually, he was actually -- not  
 3 only for access, but he was operating on  
 4 the Frankford Creek Right-of-Way with an  
 5 office and a truck scale.  
 6 Q. And that was off the  
 7 Richmond Street side --  
 8 A. No.  
 9 Q. Close to Richmond Street?  
 10 A. That was off of Delaware  
 11 Avenue.  
 12 Q. Nothing off of Richmond  
 13 Street?  
 14 A. Nope. He had no access from  
 15 Richmond Street.  
 16 Q. Do you know the address of  
 17 4087 Richmond Street?  
 18 A. I -- I'm familiar with the  
 19 number, yes.  
 20 Q. And what does that  
 21 represent?  
 22 A. There is a -- it's been  
 23 referred to as the piece of ground which  
 24 is actually part of the Frankford Creek

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1 MR. DURHAM: The portion  
 2 that has the address of 4087.  
 3 BY MR. DURHAM:  
 4 Q. Could you describe -- 4087  
 5 is Richmond Avenue; am I correct?  
 6 A. That's what it's been  
 7 referred to, but there's no official  
 8 address in the OPA records for that.  
 9 However, the piece of ground  
 10 that is adjacent to the Frankford Creek  
 11 and Richmond Street is the Frankford  
 12 Creek Right-of-Way, and it extends  
 13 between the Frankford Creek -- the creek  
 14 itself -- and the railroad, which crosses  
 15 over Richmond Street and runs parallel to  
 16 Lewis Street eventually crossing over the  
 17 Delaware River into New Jersey. I  
 18 believe that's -- Conrail is that rail  
 19 line there.  
 20 So at Richmond Street,  
 21 the -- between the creek and the railroad  
 22 is all Frankford Creek Right-of-Way.  
 23 That goes back approximately 1,000 feet,  
 24 somewhere around there, 1,000,

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1 Right-of-Way.  
 2 Q. And the Frankford Creek  
 3 Right-of-Way was what? Can you describe  
 4 for me what it is?  
 5 A. Frankford Creek is -- in  
 6 this location, it is actually a manmade  
 7 creek. Frankford Creek was relocated for  
 8 the construction of the Betsy Ross  
 9 Bridge.  
 10 During that time, the City  
 11 purchased and/or condemned land along the  
 12 current location of the Frankford Creek  
 13 for the construction of Frankford Creek  
 14 and divert it from its previous location.  
 15 Q. And could you tell me  
 16 approximately how large a piece of  
 17 property the Frankford Creek Right-of-Way  
 18 at this location is? How long, how wide,  
 19 how many acres, whatever description you  
 20 care to use.  
 21 MS. CLAIBORNE: Objection to  
 22 form.  
 23 Can you just specify which  
 24 portion you're talking about?

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1 1,200 feet. I forget the number off the  
 2 top of my head.  
 3 Q. That's all right.  
 4 A. And then at that point, the  
 5 Frankford Creek Right-of-Way narrows down  
 6 a bit and when you -- as you get to, say,  
 7 Carbon Street and Delaware Avenue, there  
 8 is some private property that exists  
 9 between the creek and that same railroad.  
 10 Q. And one of those parcels in  
 11 that area is the one that Mr. Holton  
 12 owns. You called it the back lot?  
 13 A. There are four parcels in  
 14 that area at the -- just north of Carbon  
 15 Street, there are two parcels, the -- Mr.  
 16 Holton's back lot, and a property owned  
 17 by, I believe, Oliver Painter.  
 18 Q. I believe --  
 19 A. I don't know if he's still  
 20 the owner or not, but at one time he was.  
 21 And then as you -- I guess  
 22 east of Carbon Street, between Carbon  
 23 Street and Delaware Avenue, there are two  
 24 parcels, which is -- one of which --

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1 well, actually, three parcels.

2 One of which is Mr. Holton's

3 auto salvage yard. The other one is

4 owned by an energy company. Is it

5 Trigent, I think? It's a gas company,

6 basically. It's -- and they have a gas

7 pipeline that crosses the Delaware River,

8 and they have it stationed there on

9 Delaware Avenue.

10 And then there are -- then

11 there is a remnant parcel from the

12 original railroad property, which

13 encompassed pretty much that whole area.

14 The railroad over the years

15 over almost a 100-year span had

16 subdivided a railroad property there,

17 which, at one point was I believe Penn

18 Central, and sold off pieces of it --

19 part of it to the railroad -- sorry --

20 part of it wound up as part of the gas

21 company, and part of it wound up -- part

22 of it was sold to a Mr. Claus and then to

23 a Mr. Bonn Christiani and then from Bonn

24 Christiani to Holton for the auto salvage

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1 Creek Right-of-Way? That was in

2 20 -- probably 2007, 2008.

3 BY MR. DURHAM:

4 Q. And how did you become aware

5 of that?

6 A. We were developing plans for

7 an extension of Delaware Avenue from

8 Lewis Street up to Orthodox Street.

9 Q. And that would be -- the

10 Delaware side of Mr. Holton's property,

11 was he operating on part of the City

12 property in that area of the Frankford

13 Creek Right-of-Way?

14 A. Yes.

15 Q. Was he operating on any

16 other part of the Frankford Creek

17 Right-of-Way that you were aware of?

18 A. At the very -- at the

19 beginning of the project, no. It was

20 just the -- shall we say the eastern end

21 on the Frankford Creek Right-of-Way near

22 Delaware Avenue.

23 Q. Did you subsequently learn

24 that Mr. Holton and/or his tenant, Mr.

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1 business that he has there.

2 However, the railroad

3 property did not sell off what was

4 commonly referred to as the beds of

5 Roxborough Street and Delaware Avenue.

6 The deeds specifically excluded that

7 parcel -- it's like an L-shaped parcel.

8 And that actually wrapped

9 around -- was in between Mr. Holton and

10 the energy company and wrapped around the

11 front of Mr. Holton's property, so it was

12 actually between him and Delaware Avenue.

13 Q. Thank you.

14 When did you first become

15 aware that Mr. Holton may be operating a

16 business on City property?

17 MS. CLAIBORNE: Objection to

18 form.

19 If you could clarify what

20 property you're referring to.

21 MR. DURHAM: I'm talking

22 about the Frankford Creek

23 Right-of-Way.

24 THE WITNESS: Frankford

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1 Creedon, operating under the term "K

2 Squad," was operating a business on the

3 Richmond Street end of the Frankford

4 Right-of-Way?

5 MS. CLAIBORNE: Objection to

6 form.

7 You can answer.

8 THE WITNESS: Yes.

9 That was somewhere between

10 2010 and 2012. It appeared at the

11 time when we removed him from the

12 Frankford Creek Right-of-Way down

13 on Delaware River, he moved

14 into -- he appeared to move into

15 that -- the portion -- the same --

16 you know, the same right-of-way up

17 near Richmond Street.

18 BY MR. DURHAM:

19 Q. Do you know whether he was

20 operating at the Richmond Street end of

21 the Frankford Creek Right-of-Way prior to

22 you removing him from the Delaware Avenue

23 and the eastern end of the Frankford

24 Creek Right-of-Way?

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1 A. No, he was not.  
 2 Q. You've been by the property  
 3 numerous times, I presume?  
 4 A. Yes.  
 5 Q. And would I be correct that  
 6 it's the -- Richmond Street leads you  
 7 right to the Betsy Ross Bridge; does it  
 8 not? It's right --  
 9 A. Yes.  
 10 Q. -- on the other side of the  
 11 right-of-way.  
 12 And the City, I think,  
 13 claims to have owned it since 1951; would  
 14 that be correct to your memory?  
 15 MS. CLAIBORNE: Objection to  
 16 form.  
 17 Can you identify what piece  
 18 of property you're talking about?  
 19 MR. DURHAM: I'm talking  
 20 about the Frankford Creek  
 21 Right-of-Way.  
 22 THE WITNESS: The -- yes.  
 23 The City purchased that around  
 24 1950, 1951. We have jury plans,

1 subsequent adverse possession  
 2 proceeding that is improper.  
 3 I'm not going to instruct  
 4 him not to answer, but I'm placing  
 5 a standing objection on the  
 6 record.  
 7 You can respond.  
 8 MR. DURHAM: No objection to  
 9 that.  
 10 THE WITNESS: So the  
 11 property has been in continuous  
 12 use by the City for, you know,  
 13 since the -- since its purchase  
 14 back in the 1950s.  
 15 BY MR. DURHAM:  
 16 Q. Was there a fence across the  
 17 Richmond Street end of the Frankford  
 18 Creek Right-of-Way property?  
 19 MS. CLAIBORNE: Objection to  
 20 form.  
 21 If you can identify what  
 22 time you're talking about.  
 23 THE WITNESS: I believe so.  
 24 I can't say for the whole

1 which document the condemnation of  
 2 the land there.  
 3 BY MR. DURHAM:  
 4 Q. And to the best of your  
 5 knowledge, has anything been done with  
 6 the Frankford Creek Right-of-Way in that  
 7 area from Richmond Street to Delaware  
 8 Avenue in the last 70 years?  
 9 MS. CLAIBORNE: Objection to  
 10 form.  
 11 THE WITNESS: You have to  
 12 define that.  
 13 BY MR. DURHAM:  
 14 Q. Has any development been  
 15 taken place by the City or with the  
 16 City's approval on that portion of the  
 17 Frankford Creek Right-of-Way from  
 18 Richmond Street to where you said it ends  
 19 at Delaware Avenue?  
 20 MS. CLAIBORNE: And I'm just  
 21 going to place a standing  
 22 objection to the extent that  
 23 discovery in this case is being  
 24 used to obtain information for a

1 70 years, but for -- you know, I  
 2 do -- you know, there is a fence  
 3 there now. It's been there for  
 4 some time.  
 5 BY MR. DURHAM:  
 6 Q. And do you know whose fence  
 7 that is?  
 8 MS. CLAIBORNE: Objection to  
 9 form.  
 10 THE WITNESS: It's on City  
 11 property. It's now the City's  
 12 fence.  
 13 BY MR. DURHAM:  
 14 Q. But you don't know whether  
 15 the City erected it or not; do you?  
 16 A. I do not know who erected  
 17 it, no.  
 18 Q. Do you know your codefendant  
 19 in this case, Bobby Henon?  
 20 A. Yes, I do.  
 21 Q. And what is Mr. Henon's  
 22 position in the City?  
 23 MS. CLAIBORNE: Objection.  
 24 I thought you meant mental

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1 position.

2 THE WITNESS: He's a

3 councilperson.

4 BY MR. DURHAM:

5 Q. And is he in charge of the

6 Streets Department?

7 A. No.

8 Q. Did you and Mr. Henon have

9 any conversations about Mr. Holton's use

10 of the City -- what you believe to be the

11 City property?

12 A. Yes, we had.

13 Q. And were they written

14 communications or verbal or both?

15 A. It was mostly verbal.

16 MS. CLAIBORNE: And I'll

17 just instruct to the extent that

18 these were communications with

19 counsel, either myself at

20 Jefferson or another attorney for

21 the purposes of obtaining the

22 advice of counsel, I'm instructing

23 you not to respond, but otherwise

24 you can respond.

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1 BY MR. DURHAM:

2 Q. Yes. In the time period

3 between, I think you said 2010, 2012, you

4 realized that Mr. Holton had moved his

5 operation from what you described as the

6 east end of the Frankford Creek

7 Right-of-Way property to the northern end

8 of Frankford creek onto the Richmond

9 Avenue side.

10 Did you have any

11 communications with Mr. Henon between

12 2010 and 2018 October when you removed

13 Mr. Holton from the property?

14 A. I -- we had some verbal

15 communications.

16 Q. Did --

17 A. I routinely get requests for

18 information from all of the council

19 members as far as our operations going.

20 Q. And you routinely answer

21 them; am I correct?

22 A. Yes. If they were strictly

23 requests for information.

24 Q. You didn't receive any

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1 direction to remove him?

2 A. Oh, no.

3 Q. Now, you just told me that

4 Delaware Avenue was widened from Lewis

5 Street north; am I correct? In 2012?

6 A. It was actually created. It

7 wasn't widened.

8 Q. It didn't exist back at that

9 point in time?

10 A. Back in the 1960s --

11 somewhere around there -- Delaware Avenue

12 was stricken from the City plan in that

13 area.

14 So in order to construct the

15 current Delaware Avenue, we had to

16 purchase or condemn all the right-of-way

17 for that, so it did not exist prior to

18 this project.

19 Q. So in 2012, the street was

20 created beyond Lewis Street going north;

21 am I correct?

22 A. Yes.

23 Q. "The street" being Delaware

24 Avenue.

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1 And that was part of what  
2 ultimately became Mr. Holton's property,  
3 by virtue of the deed from the successor  
4 to the railroad; you're aware of that,  
5 are you not?

6 A. Yes. That is a parcel that  
7 is separate from his auto salvage  
8 business.

9 Q. When that section was taken,  
10 did Mr. Holton still have access to the  
11 auto salvage business through Delaware  
12 Avenue?

13 A. Well, Delaware Avenue didn't  
14 exist at the time. So his only access  
15 was across private property -- Delaware  
16 Avenue was all private property at that  
17 time.

18 Q. So when that 5,733 square  
19 feet was condemned for the good of the  
20 town in creating Delaware Avenue, that  
21 took away his access, be it unlawful or  
22 lawful; would I be correct in that  
23 statement? That would be in 2012.

24 MS. CLAIBORNE: Objection.

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1 attorney. And I --

2 MS. CLAIBORNE: Objection to  
3 the extent it calls for  
4 attorney-client communications.

5 You can talk about it, but  
6 don't discuss communications with  
7 counsel.

8 THE WITNESS: My role was  
9 preparing deed descriptions for  
10 the parcels.

11 BY MR. DURHAM:

12 Q. Okay. Thank you.

13 Do you recall when you may  
14 have first been physically present on the  
15 Frankford Creek Right-of-Way on the  
16 Richmond Street end?

17 A. I'd have to say somewhere  
18 around 2011, 2012.

19 Q. Okay. And at that point in  
20 time, you made a determination that Mr.  
21 Holton was using at least a portion of  
22 that property illegally?

23 A. Yes. I received a  
24 complaint.

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1 Q. And who did you receive the  
2 complaint from?

3 A. I don't recall. It may have  
4 been a resident. It might have been one  
5 of my inspectors on the construction  
6 project who'd routinely drive around the  
7 perimeter of the project to ensure that  
8 their construction project isn't causing  
9 traffic problems in the neighborhood.

10 Q. And could it have been Mr.  
11 Henon that made a complaint?

12 A. No, it did not come from  
13 city council.

14 Q. Okay. It didn't come from  
15 his office?

16 A. No. As a matter of fact, I  
17 knew about it before city counsel did.

18 Q. Is this property -- that  
19 we're going to call the Frankford Creek  
20 Right-of-Way -- is it part of the  
21 Frankford Creek Greenway? Have you ever  
22 heard that term?

23 A. The Frankford Creek Greenway  
24 is actually a trail project that utilizes

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1 several parcels and land for a pedestrian  
2 and bicycle trail in the area of the  
3 Frankford Creek.

4 Q. Do you know whether this  
5 parcel ground was meant to be part of  
6 that?

7 MS. CLAIBORNE: Objection to  
8 form.

9 Can you just confirm what  
10 parcel ground you're talking  
11 about?

12 BY MR. DURHAM:

13 Q. I'm talking the parcel  
14 ground that we've refer to as the  
15 Frankford Creek Right-of-Way rubbing from  
16 Richmond Street to Delaware Avenue?

17 A. No. That parcel is  
18 specifically for the Frankford Creek and  
19 its adjacent floodway.

20 Q. Okay. You're familiar as a  
21 surveyor to ways of distinguishing where  
22 one property might begin and the next  
23 might end; are you not?

24 A. I am not a licensed

1 would you make that determination as a  
2 chief engineer of the city?

3 A. All property lines --  
4 anyone -- all properties in the City are  
5 referenced to a point on the city plan,  
6 which is the -- shall we say the official  
7 street map of the City.

8 And our survey districts  
9 have all that information. Anybody that  
10 wants to locate a property line can --  
11 has several options. They can go to the  
12 city survey district for that particular  
13 area and request a property line survey  
14 or a stake out. We actually do also set  
15 monuments.

16 But they can also hire any  
17 licensed -- any surveyor that's licensed  
18 in the state of Pennsylvania to stake out  
19 that -- to stake out their property from  
20 their deed.

21 The deed description, the  
22 description of the property and the deed  
23 has the meets and bounds of the property,  
24 which is a complete description of the

1 surveyor. All of the surveyors in the  
2 City report to me as the chief engineer  
3 and president of the Board of Surveyors,  
4 but I am experienced in survey and I am  
5 familiar with property line descriptions.

6 Q. And you normally would have  
7 something, either a pin or a monument  
8 erected, to distinguish where one  
9 property might begin and the other might  
10 end; would I be correct?

11 A. Those are ways of demarcing  
12 [sic] properties, however, not all  
13 properties have pins at the corners.

14 Q. So how would one determine  
15 on this particular property, the  
16 Frankford Creek Right-of-Way, running  
17 from Richmond Street to Delaware Avenue,  
18 how would one determine where -- you  
19 mentioned Mr. Holton and you mentioned an  
20 Oliver Painter, I believe you said his  
21 name was.

22 How would one determine  
23 where Mr. Painter's property began, Mr.  
24 Holton's property began and ended? How

1 property lines and references them to a  
2 specific point on the city plan.

3 So -- actually, anyone with  
4 a good knowledge of geometry and  
5 trigonometry can actually do that  
6 themselves, but they -- you know, for an  
7 official documentation of where the  
8 property line is, they would go to a  
9 licensed surveyor or to a survey  
10 district.

11 Q. When you walked on the  
12 Frankford Creek Right-of-Way -- it's hard  
13 to say. I get tongue tied saying it so  
14 often -- for the first time and made a  
15 determination that you believed Mr.  
16 Holton was using City property for his  
17 business, how could you make that  
18 determination?

19 Were there pins there that  
20 indicate to you this is where one would  
21 end and the other ended?

22 MS. CLAIBORNE: Objection to  
23 form.

24 If you could just clarify to

1 which end of the property you're  
2 talking about since there's two --  
3 BY MR. DURHAM:  
4 Q. Yes. I'm talking about the  
5 eastern end of the property.  
6 That's the first end of the  
7 property that you believe that Mr. Holton  
8 was operating illegally; am I correct?  
9 A. That was the -- yes. That  
10 was the area adjacent to Delaware Avenue.  
11 Q. Correct.  
12 A. And our survey of the area  
13 for the project is how we found that out.  
14 Q. And you only took  
15 5,733 square feet.  
16 Now, you're a math guy, so  
17 tell me: How long and how wide a piece  
18 of property is that?  
19 A. I believe it was about  
20 30 feet wide and a little over 100 feet  
21 long.  
22 Q. Okay. And the "long"  
23 being the portion that was to become  
24 Delaware Avenue?

1 lines in reference to the buildings and  
2 all the physical attributes of the area.  
3 And that's where we found  
4 that someone was operating on the  
5 Frankford Creek Right-of-Way. At the  
6 time, we did not know Mr. Holton was part  
7 of that. It was -- the sign on the wall  
8 on the gate there was, I think, AB  
9 something or other. It was a business.  
10 We had no idea there was a relationship  
11 between that business and Mr. Holton.  
12 We found out later -- Mr.  
13 Holton told me that he actually owned  
14 that business. You know? So -- it was  
15 later that we found out at the beginning,  
16 that we had no idea it was Mr. Holton.  
17 Q. And what steps, if any, did  
18 you take to get Mr. Holton off of the  
19 eastern end of the Frankford Creek  
20 Right-of-Way that you found out that he  
21 was operating on?  
22 A. After multiple meetings with  
23 Mr. Holton and his attorney, we  
24 eventually, you know, showed him the

1 A. Yes. Along the face of  
2 Delaware Avenue.  
3 Q. And the 30 feet wide would  
4 be going back towards Richmond Street; am  
5 I correct?  
6 A. Yes, approximately.  
7 Q. Approximately. Okay.  
8 So from that relatively  
9 small area, that's less than, what, about  
10 a tenth of an acre? Maybe two-tenths of  
11 an acre? You were able to ascertain that  
12 he was on City property?  
13 A. No.  
14 Q. Okay. Then how did you  
15 ascertain that he was on City property  
16 and not the other private property that  
17 belonged to the gas company that you  
18 described earlier?  
19 A. We -- at the beginning of  
20 the project, what we do is an existing  
21 survey of all of the properties, and that  
22 includes the property lines.  
23 So we surveyed all the  
24 properties and laid out all the property

1 deed -- you know, went over the deeds,  
2 did stake out, showed him plans and  
3 eventually, he agreed to vacate the area  
4 and signed -- specifically signed an  
5 agreement to vacate the Frankford Creek  
6 Right-of-Way.  
7 Q. And would you have a copy of  
8 that agreement?  
9 A. Not on me, but we do.  
10 Q. If you pulled it out of your  
11 pocket, I would have been surprised.  
12 MR. DURHAM: Would you  
13 provide us a copy of that?  
14 MS. CLAIBORNE: I can go get  
15 it right now if you want.  
16 MR. DURHAM: Well, if you  
17 want, you can, or we can wait  
18 until we're done.  
19 MS. CLAIBORNE: It's filed  
20 on the docket with Mr. Holton's  
21 case.  
22 BY MR. DURHAM:  
23 Q. Okay. Did you cause any  
24 citations at that point in time when you

1 were negotiating with Mr. Holton to  
 2 remove himself from the Frankford Creek  
 3 Right-of-Way, I guess, Mr. Holton caused  
 4 to be issued?

5 MS. CLAIBORNE: Objection to  
 6 form.

7 You can answer.

8 THE WITNESS: I never  
 9 actually issued any citations.

10 BY MR. DURHAM:

11 Q. You don't issue citations  
 12 anyway, do you?

13 A. I do for street issues, yes.  
 14 However, outside of the  
 15 street right-of-way, citations is the  
 16 jurisdiction of department of Licenses &  
 17 Inspection.

18 So when I see -- if I see  
 19 violations that are not within the street  
 20 right-of-way, I notify Licenses &  
 21 Inspection, they do their own inspection  
 22 and verify codes and make -- and then  
 23 issue violations as appropriate.

24 I rarely get any information

1 railroad and Frankford Creek because the  
 2 Frankford Creek Right-of-Way goes right  
 3 up against the railroad on Richmond  
 4 Street.

5 And so anyone operating in  
 6 that area is operating on City property.

7 Q. Okay. And do you know what  
 8 happened to K Squad?

9 Do you know whether they  
 10 continued to operate there or if they  
 11 moved their business prior to your  
 12 closing everything down in October of  
 13 2018?

14 MS. CLAIBORNE: Objection to  
 15 form.

16 You can answer.

17 THE WITNESS: They continued  
 18 to operate through that, you  
 19 know -- from that time up until  
 20 2018 when we physically removed  
 21 them from our property.

22 BY MR. DURHAM:

23 Q. Were you involved -- in the  
 24 2016-2017 timeframe, were you involved

1 back when I forward anything over to L&I.  
 2 It's their jurisdiction, so there's not  
 3 generally a need for me to be involved at  
 4 that point unless they need my expertise  
 5 on something.

6 Q. Do you remember ever having  
 7 to deal with Mr. Creedon and his  
 8 business, K Squad, at that location, the  
 9 Frankford Creek Right-of-Way location  
 10 between 2010 and 2018?

11 A. Yes. When I saw a sign go  
 12 up for K Squad, at that time, I did not  
 13 know Mr. Holton was involved in any shape  
 14 or form. I notified L&I of a business  
 15 operating on the Frankford Creek  
 16 Right-of-Way.

17 Q. And at which end --

18 A. This is at Richmond Street.

19 Q. Thank you.

20 A. And I know this because from  
 21 the plans that we had put together and my  
 22 own familiarity with the City  
 23 right-of-ways, I know that there was no  
 24 private property located between the

1 with K Squad moving away from the front  
 2 of the Richmond Street end of the  
 3 Frankford Creek Right-of-Way and moving  
 4 back on to property actually owned by Mr.  
 5 Holton?

6 A. I was not aware that they  
 7 ever moved. If they had moved away from  
 8 Richmond Street, I would not have had to  
 9 evict them.

10 Q. Okay. We'll get to that in  
 11 just a very short period of time.

12 You mentioned earlier about  
 13 some streets that had -- some properties  
 14 had misleading addresses. Are they in  
 15 that same area where Mr. Holton is such  
 16 that 4085 doesn't actually reach Richmond  
 17 Street?

18 Do you understand my  
 19 question?

20 MS. CLAIBORNE: Objection to  
 21 form.

22 THE WITNESS: Yes. Mr.  
 23 Holton's auto salvage business on  
 24 Delaware Avenue had a Richmond

1 Street address. That is not  
2 correct.

3 MR. DURHAM: Right.

4 BY MR. DURHAM:

5 Q. Are you familiar with other  
6 properties with the same type of problem  
7 is what I'm asking you.

8 A. It comes up every now and  
9 then.

10 You know, Mr. Holton -- his  
11 licenses have multiple addresses and how  
12 he got a Richmond Street address for a  
13 property that fronts on Delaware Avenue,  
14 I have no idea how that happened.

15 Q. Obviously -- does your  
16 department assign property addresses?

17 A. No.

18 Q. And do you know who does?

19 A. The Office of Property  
20 Assessments, the OPA. They give the  
21 official addresses. However, there have  
22 been cases where people have gone to the  
23 Post Office and gotten the Post Office to  
24 give them an address for a property which

1 purchased the property from -- Mr. Holton  
2 purchased the property from?

3 A. From Albert Bonn Christiani.

4 Q. And that's one of the names  
5 you mentioned earlier, along part of the  
6 lots in the eastern corner that you --

7 A. There was -- yes. These  
8 were -- there were several property  
9 owners since the railroad subdivided that  
10 it out.

11 Q. Does the address 4887 exist  
12 on any city map -- 47 Richmond Street?

13 A. It...

14 Q. That you're aware of?

15 A. It shouldn't.

16 Q. Did you file any reports, be  
17 it oral or in writing, concerning whether  
18 or not Mr. Holton's property was  
19 polluting the Frankford Creek?

20 MS. CLAIBORNE: Objection to  
21 the term "reports."

22 You can answer.

23 BY MR. DURHAM:

24 Q. Did you report to anyone?

1 really isn't official and they use that.

2 We -- you know, we expect  
3 that somewhere along the line, someone  
4 got these addresses for this property --  
5 for these parcels as mailing addresses,  
6 not necessarily legal property addresses,  
7 from the Post Office.

8 Q. But you don't know that for  
9 sure?

10 A. No. It's just a -- it's  
11 just a theory of how it -- how the  
12 problem got created to begin with, which  
13 was --

14 Q. And do you know --

15 A. -- prior to Mr. Holton  
16 owning the property.

17 Q. I'm sorry. I didn't mean to  
18 interrupt you.

19 Prior to Mr. Holton -- so  
20 you don't believe it was Mr. Holton that  
21 did that; am I correct?

22 A. No. I think it happened  
23 before he...

24 Q. And do you know who he

1 Did you say, write, sign language -- I  
2 don't care what you used -- to indicate  
3 that Mr. Holton's property was causing  
4 pollution in the Frankford Creek?

5 A. No.

6 Q. Did you ever testify to that  
7 in any court?

8 A. Nope.

9 Q. Are you aware of the city  
10 ever making that claim?

11 A. No.

12 Q. Would you agree with me that  
13 an address for a property usually  
14 reflects that property being on the named  
15 street and the address?

16 MS. CLAIBORNE: Objection to  
17 the extent it calls for  
18 speculation.

19 You can answer.

20 THE WITNESS: When the  
21 addresses are properly allocated,  
22 yes.

23 However, there are cases of  
24 landlocked parcels that have what

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1 we are referenced to as "rear  
2 properties." All right?

3 And the current -- the  
4 actual current official address  
5 for these parcels involved in our  
6 discussion here today, two of them  
7 are designated as rear properties  
8 because they do not have physical  
9 frontage on that street.

10 And Mr. Holton's auto  
11 salvage business, the fenced-in  
12 area that's fronting on Delaware  
13 Avenue, actually has a rear  
14 address.

15 The parcel he acquired  
16 between his auto salvage and  
17 Delaware Avenue is -- actually has  
18 the front address on Delaware  
19 Avenue because it has Delaware  
20 Avenue frontage.

21 His rear property on his  
22 deed referenced as Parcel B, which  
23 actually fronts on Carbon Street,  
24 which is not a real street, was

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1 Q. Why were you there?

2 A. We were there to remove the  
3 illegal business from the City property.

4 Q. You said "we." Who's "we?"

5 A. That would be Streets  
6 Department, Licenses & Inspection, and  
7 the police department.

8 Q. Am I correct that there are  
9 no streets on the Frankford Creek  
10 Right-of-Way property?

11 A. That is correct.

12 Q. So why is the Streets  
13 Department involved in something where  
14 there are no streets?

15 A. It was a property issue and  
16 as the president of the Board of  
17 Surveyors, we did all the research for  
18 the -- to define the property lines,  
19 stake out where it is. And as the chief  
20 engineer and president of the Board of  
21 Surveyors, I am routinely involved in L&I  
22 actions.

23 Q. So that's --

24 A. I do dozens of

1 recently given a Richmond Street  
2 rear address because it does not  
3 have frontage on Richmond Street.  
4 That property ends over 1,000 feet  
5 away from Richmond Street.

6 BY MR. DURHAM:

7 Q. Thank you. Carbon Street,  
8 is that a paper street?

9 A. Yes. Carbon Street is  
10 actually railroad right-of-way. So it's  
11 still shown on our plans as a street, but  
12 it's a paper street. The City has --  
13 does not have a right-of-way there. It  
14 is the railroads.

15 Q. So Carbon Street couldn't be  
16 opened as a street at this point in time?

17 A. It's possible. That would  
18 require agreements with the railroad.

19 Q. On October 13, 2018, were  
20 you present at the property we're going  
21 to refer to as the Frankford Creek  
22 Right-of-Way owned by the City fronting  
23 on Richmond Street?

24 A. Yes.

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1 investigations every year for L&I.

2 MR. DURHAM: I'm going to  
3 show him one of the pictures you  
4 gave to me. As a matter of fact,  
5 a few of them. Those are two of  
6 them.

7 I'm going to ask the court  
8 reporter to mark -- if you  
9 object -- just Gatti A through D.  
10 - - -

11 (At this time, Exhibits  
12 Gatti A through D were marked for  
13 identification.)  
14 - - -

15 BY MR. DURHAM:

16 Q. Mr. Gatti, I'm going to show  
17 you what we marked Gatti A and I'm going  
18 to tell you that I received this from  
19 your attorney and it does have some  
20 information on it.

21 And I'm going to ask you,  
22 first of all, have you ever seen that  
23 picture before?

24 A. Probably. It's from Google

1 Street View, so this is public  
 2 information.  
 3 Q. Did your attorney ever show  
 4 you that picture?  
 5 A. No, I do not believe she  
 6 did.  
 7 Q. Does that -- what do you see  
 8 on that picture? Does it identify where  
 9 that property is located?  
 10 A. I happen to know where it's  
 11 located.  
 12 Q. Okay.  
 13 A. It does actually have an  
 14 address on here as 4094 Richmond Street,  
 15 but the Google addresses are --  
 16 Q. Not accurate.  
 17 A. Not necessarily -- they're  
 18 not official. Not necessarily -- it's  
 19 just for references.  
 20 Q. Okay.  
 21 A. However, this is the -- this  
 22 is along Richmond Street. The left side  
 23 of the picture is actually the waterway  
 24 and the center of the picture is the

1 Picture B. I'm going to ask you --  
 2 first, have you ever seen it before?  
 3 A. It's another Google Street  
 4 View, so I might have seen it.  
 5 Q. Did anyone ever bring your  
 6 attention to it before in reference to  
 7 this lawsuit?  
 8 A. No.  
 9 Q. And does that reflect the  
 10 way the property -- did you ever see the  
 11 property looking like that?  
 12 A. Yes.  
 13 Q. Okay. And that, again, has  
 14 a fence with a -- appears to be  
 15 corrugated metal of some type across the  
 16 front of it?  
 17 A. Yes. They put that up.  
 18 Prior to that, it was just a regular  
 19 fence.  
 20 Q. And you say "they." You  
 21 believe that to be --  
 22 A. Whoever was operating in  
 23 there. At the time, the sign first said  
 24 K Squad. I don't know what the name was

1 Frankford -- is the southern side of the  
 2 Frankford Creek Right-of-Way. The  
 3 right-hand side of the picture, there's  
 4 two billboards that are located on  
 5 railroad property.  
 6 Q. Okay. And is this the  
 7 property you know as 4087 Richmond  
 8 Street, the Frankford Creek Right-of-Way?  
 9 A. It's the Frankford Creek  
 10 Right-of-Way. It has been referred to as  
 11 4085 as well as 4087.  
 12 Q. I know the numbers are  
 13 confusing.  
 14 Do you see a gate there?  
 15 A. Yes.  
 16 Q. Was that gate there the  
 17 morning of October 13, 2018?  
 18 A. Yeah. Yes, it was.  
 19 Q. And was that gate locked?  
 20 A. Yes, it was.  
 21 Q. How did you get through the  
 22 gate?  
 23 A. We cut the lock.  
 24 Q. I'm going to show you

1 the day we removed them from the  
 2 property.  
 3 Q. Mr. Holton was there that  
 4 day; was he not?  
 5 A. Yes, he was.  
 6 Q. And did you engage in  
 7 conversation with Mr. Holton about what  
 8 you were doing?  
 9 A. Well, actually, it's what  
 10 L&I was doing. L&I was doing eviction; I  
 11 was sporting L&I with equipment and  
 12 manpower from the Streets Department,  
 13 which is a normal cooperation that we  
 14 have. We have equipment that they don't  
 15 have.  
 16 Q. Would that be the tow trucks  
 17 and whatnot?  
 18 A. The tow trucks were actually  
 19 private tow trucks hired by the police  
 20 department. The front-end loaders were  
 21 highway equipment from the Streets  
 22 Department and there were also several  
 23 workers there employed by the Streets  
 24 Department and in our highway unit.

1 Q. Okay. And I realize you  
2 have three different groups there. The  
3 Streets Department, L&I and the police.  
4 Who was taking the lead, if you know?  
5 A. Well, L&I has the lead  
6 because L&I is the one that issued the  
7 cease and desist order on the property,  
8 and it was an L&I function that went  
9 through the courts as well as dealing  
10 with the filed injunctions against us,  
11 and they also issued the letters to Mr.  
12 Holton, Mr. Creedon, you know, notifying  
13 them of our upcoming action.  
14 Q. Okay.  
15 A. And that was delayed twice  
16 so he had plenty of notice and plenty of  
17 opportunity to move on his own, but he  
18 did not -- sorry. They did not. I don't  
19 know -- and it's still unclear to me who  
20 owned what in that area. There was K  
21 Squad, Mr. Creedon, Mr. Holton, but Mr.  
22 Holton claims to be the owner of it all  
23 or something like that.  
24 Q. Okay. I'm going to show you

1 Exhibit C. Again, it's a Google Street  
2 View. I was given this, again, by your  
3 attorney.  
4 A. Mm-hmm.  
5 Q. Does this reflect the  
6 property that we've been talking about,  
7 the Frankford Creek Right-of-Way  
8 property?  
9 A. Yes, it does.  
10 Q. Okay. And that picture was  
11 taken when? Does it say at the bottom?  
12 A. November of 2018. This was  
13 after the removal.  
14 Q. Okay. And is that -- is  
15 October the 13th 2018 the last time you  
16 were on the property, the day everything  
17 was removed? If you recall.  
18 A. I believe that may have been  
19 the last time I was physically on the  
20 property.  
21 I have been on the sidewalk  
22 in front of the property since then, but  
23 I don't think I was actually on the  
24 property.

1 Q. Were you on the sidewalk in  
2 front of the property for any reason  
3 related to this lawsuit?  
4 A. No.  
5 MS. CLAIBORNE: Objection to  
6 the extent it calls for  
7 speculation.  
8 You can answer.  
9 MR. DURHAM: He couldn't  
10 speculate as to why he was there;  
11 he'd know why he was there.  
12 MS. CLAIBORNE: Well, it's  
13 the basis of your lawsuit. It  
14 keeps changing and I don't think  
15 it's no longer reflective of the  
16 pleading so I'm not sure he knows  
17 what the basis of the lawsuit is.  
18 MR. DURHAM: Thank you.  
19 I'm showing the last picture  
20 here.  
21 BY MR. DURHAM:  
22 Q. And again, does this picture  
23 purport to be the Frankford Creek  
24 Right-of-Way property that we've been

1 speaking of?  
2 A. Yes.  
3 Q. And if you recall, is this  
4 how it looked the last time you saw the  
5 property?  
6 A. Pretty close to it.  
7 Q. And this picture does have a  
8 date; doesn't it?  
9 A. August 9, 2019.  
10 Q. And that's after everything  
11 had been removed; am I correct?  
12 A. Yes.  
13 Q. When you were on the  
14 property on October 13, 2018, for the  
15 purpose of helping L&I or assisting L&I  
16 in its duties, did you see any fencing  
17 left on the property that would account  
18 for this portion of the property being  
19 fenced?  
20 A. The fencing along Richmond  
21 Street was still up when we left. We  
22 didn't take the fencing down. We had to  
23 remove the gate --  
24 Q. Okay. So the gate --



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1 A. -- at one point during the  
2 day.

3 Q. So the gate is -- there is,  
4 I presume, four sections of what I would  
5 say were corrugated material on Gatti A.  
6 Would you agree with that?

7 A. Yes.

8 Q. And the middle two would be  
9 the gate, presumably?

10 A. Yes.

11 Q. Okay. And they were taken  
12 down, correct? The gates were -- the  
13 locks were cut and the gates were  
14 removed?

15 A. For most of the day, I think  
16 they were still up, but they may have had  
17 to have been removed for the removal of  
18 some of the larger tractor-trailers.

19 Q. And how long do you believe  
20 you were on the property the day of  
21 October 13, 2018 during this removal?

22 A. Approximately eight hours.

23 Q. And by the time you left,  
24 were all of the materials, trucks, cars,

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1 scrap metal, whatever may have been  
2 there, was all of that removed?

3 A. Most of it was removed.

4 I believe that there was a  
5 trailer and some other -- at least one  
6 trailer and another structure that were  
7 not mobile that had to be demolished by  
8 L&I and that happened directly after.

9 Q. Within a day or so or the  
10 same day?

11 A. It wasn't the same day. It  
12 happened after. I don't know exactly  
13 when. I really had no involvement in  
14 that.

15 Q. This fence in -- I'm sorry  
16 Gatti -- I can't read upside down.

17 A. B.

18 Q. B. Thank you, sir.

19 Is the same fence we see if  
20 Gatti A; am I correct?

21 A. Yes.

22 Q. And the next picture that I  
23 showed you, Gatti C, dated November of  
24 2018, those corrugated metal fences are

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1 no longer present; am I correct?

2 You see the difference  
3 between these pictures?

4 A. Yes.

5 Q. You would agree with that,  
6 would you not, that that's gone now?

7 A. The fence is still there.  
8 The corrugated metal panels are not.

9 Q. And were they just attached  
10 or do you know how they were attached to  
11 the fence?

12 A. They were loosely just  
13 attached to the fence and it was not --  
14 it was a safety violation. So those  
15 panels had to be removed. They weren't  
16 adequately -- a wind would pick them up  
17 and blow them and kill somebody.

18 Q. But you didn't see that  
19 happen, did you?

20 A. Them killing anyone? No.

21 Q. The wind blowing them away.

22 A. No. They were removed to  
23 prevent that from happening. And that  
24 happened on the 13th.

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1 Q. Now, when you were there on  
2 the 13th helping L&I, you obviously made  
3 observations of what was on the property;  
4 am I correct?

5 A. Yes, sir, I did.

6 Q. And all of those things were  
7 being removed from the property that  
8 could be removed? Is that your  
9 testimony?

10 A. Yes.

11 Q. And you said something about  
12 the tow trucks being private companies or  
13 individuals hired by -- did you say the  
14 police?

15 A. It was arranged for -- I  
16 believe it was arranged for by the police  
17 department.

18 Q. Did you see anyone taking an  
19 inventory of what they were removing?

20 A. Yes.

21 Q. And do you know who that  
22 was?

23 A. The individual tow trucks  
24 were filling out slips for every piece

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1 they picked up.

2 Q. And what were they doing  
3 with those slips, if you know?

4 A. I don't know. That  
5 doesn't -- that wasn't -- I wasn't in  
6 charge of the whole operation. I was a  
7 support person.

8 Q. Did you see them hand them  
9 off to anyone, such as the police or L&I?

10 A. I don't know.

11 Q. Okay. Do you believe that  
12 the items that were taken were the  
13 property of Mr. Holton or K Squad or both  
14 of them?

15 MS. CLAIBORNE: Objection to  
16 the extent it calls for  
17 speculation.

18 You can answer if you know.

19 THE WITNESS: It was unclear  
20 as to exactly who claimed  
21 ownership of them. They both  
22 seemed to.

23 However, it was property  
24 that they had caused to be there

1 on City property. One of both of  
2 them caused those, you know, cars,  
3 trucks, equipment, whatever, to be  
4 there.

5 BY MR. DURHAM:

6 Q. There was a scale there,  
7 right? Do you see a scale in that area?

8 A. Meaning a truck scale?

9 Q. Yeah.

10 A. I don't recall that.

11 Q. How about trailers? Did you  
12 see one or two trailers there?

13 A. There were trailers, yes.

14 Q. And there were electric  
15 running to those trailer; were there not?

16 A. Not on the 13th.

17 Q. Okay. Prior to -- you had  
18 been on the property prior to that day;  
19 had you not?

20 A. Yes.

21 Q. Okay. And when you were on  
22 the prior days -- prior to October 13th  
23 of 2018, were you aware that there  
24 were extension cords going from trailer

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1 to trailer?

2 A. Yes.

3 Q. And did you play any part in  
4 having the Philadelphia Electric Company  
5 discontinue service to those trailers?

6 A. That was done through L&I.

7 Q. But you were -- were you  
8 made aware of it?

9 A. Yeah. That's the normal  
10 procedure for a -- you know, for a --  
11 this type of operation. The trailers  
12 were there illegally on City property and  
13 PECO was notified that it was not a  
14 legal, you know, building to be receive  
15 power.

16 MS. CLAIBORNE: Sorry. It's  
17 been about an hour. If you have  
18 like a good bit left or if you  
19 have more than 15 or so minutes  
20 left, do you mind if we just take  
21 a quick break?

22 MR. DURHAM: Do you want to  
23 take a quick break?

24 MS. CLAIBORNE: Yeah, just

1 two seconds.

2 - - -

3 (At this time, a short break  
4 was taken.)

5 - - -

6 MR. DURHAM: Back on the  
7 record.

8 BY MR. DURHAM:

9 Q. On October 13, 2018, were  
10 you already aware that Mr. Holton owned  
11 the back lot of 4085 Richmond Street with  
12 the back lot coming off of Delaware  
13 Avenue, whichever term you prefer to use?

14 A. Yes. Mr. Holton, on his  
15 deed, had the description for two  
16 parcels, a Parcel A and Parcel B. One on  
17 either side of Carbon Street.

18 Q. Thank you.

19 Did you make any statements  
20 as to what should happen to the inventory  
21 being taken off of the Frankford Creek  
22 Right-of-Way?

23 A. No, I did not.

24 Q. Did anyone make any

1 suggestion, L&I, yourself, the police,  
2 that that just be moved back into the  
3 actual area that Mr. Holton owned under a  
4 deed?

5 A. In a letter from the L&I  
6 commissioner to Mr. Holton and Mr.  
7 Creedon, he was given several months in  
8 order to remove all material from City  
9 property and was notified that any  
10 material left after a certain date --  
11 which was prior to October 13th -- would  
12 be impounded by the City.

13 Q. Do you know where that  
14 inventory is today that was impounded by  
15 the City?

16 A. I do not personally know.  
17 There is a legal process for the removal  
18 of abandoned vehicles and we considered  
19 all of these vehicles abandoned on City  
20 property. And the -- as far as I know,  
21 that's the process that was issued.

22 The company -- the tow  
23 company records the vehicle  
24 identification numbers and creates some

1 sort of record for each vehicle removed.  
2 Q. Were you made aware of any  
3 citations concerning the use of the  
4 Frankford Creek Right-of-Way that were  
5 given to Mr. Holton and Mr. Creedon?

6 Were you aware that the L&I cited them?

7 MS. CLAIBORNE: Objection to  
8 form.

9 If you can specify the time  
10 period that you're referring to.

11 MR. DURHAM: Let me look at  
12 the citations. I can do that.

13 BY MR. DURHAM:

14 Q. Do you know whether in the  
15 calendar year of 2017, beginning as early  
16 as March 2, 2017, whether or not the City  
17 department of Licenses & Inspections  
18 issued any violations to Mr. Holton  
19 and/or Mr. Creedon concerning the use of  
20 this property?

21 A. I believe there were  
22 violations. I don't remember off the top  
23 of my head what the specific violations  
24 were. Some of them could have been use,

1 some of them could have been related to  
2 the operations.

3 Q. And, if you know, was one of  
4 them for having the grass too high in the  
5 area?

6 A. Off of top of my head, I  
7 don't remember that one.

8 Q. Let me find it for you.  
9 And those violations, they  
10 were given time to correct those  
11 violations; am I correct?

12 A. I'm not L&I. That's...

13 Q. You work with L&I, don't  
14 you?

15 A. I work with them, but I  
16 don't issue violations, so I have no  
17 control of those violations of how  
18 they're implemented.

19 Most violations do -- just  
20 in common knowledge, most violations  
21 allow a certain time period for  
22 correction, some violations are  
23 immediate.

24 Q. But most, as you said, are

1 given time to correct them?

2 A. Yeah. Each violation gives  
3 a description as far as what -- if there  
4 is a time to rectify, they do. If there  
5 is an imminently dangerous condition,  
6 it's immediate. There is no time to do  
7 it. It's an immediate closure. So  
8 there's a whole range. And I'm not  
9 involved in any of those determinations.

10 Q. Okay. During this entire  
11 period from 2012 through 2018 when the  
12 alleged violations, or if you want to  
13 call them "the violations," on the use of  
14 the City's property known as the  
15 Frankford Creek Right-of-Way, the City  
16 was -- you condemn the City was the owner  
17 all the time; am I right?

18 A. Yes.

19 Q. Do you know who erected the  
20 gates that we see in these first two  
21 pictures, Gatti A and Gatti B?

22 A. No, I don't have any direct  
23 knowledge of who erected what there.

24 Q. But you -- no one that you

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1 were aware of from the City's side had a  
2 key to those gates; am I correct?

3 A. I don't know.

4 Q. You told me you gained  
5 entrance by cutting the locks; is that  
6 not right?

7 A. Yes.

8 Q. And if you had a key, you  
9 wouldn't have cut the lock; would you?

10 A. That's correct.

11 MS. CLAIBORNE: Objection to  
12 form. You can answer.

13 THE WITNESS: That's  
14 correct. If I had a key, I would  
15 not cut the lock.

16 BY MR. DURHAM:

17 Q. You said -- you told me you  
18 were there for about eight hours on  
19 October the 13th; am I correct?

20 A. Yes.

21 Q. Okay. 2018. Just so we're  
22 clear on the date.

23 Mr. Henon came to the  
24 property that day; did he not?

1 A. I don't remember seeing him  
2 there. I did see one of his staff  
3 members.

4 Q. And did you speak to his  
5 staff members that happened to be there?

6 A. Just to say hello.

7 Q. Do you know how he was aware  
8 of the fact that the lot was being  
9 cleared that day?

10 MS. CLAIBORNE: Objection.

11 Assumes facts not in evidence.

12 You can answer.

13 THE WITNESS: I don't know.

14 A lot of people knew that we  
15 were taking an action that day,  
16 including Mr. Holton.

17 So for all knew, Mr. Holton  
18 called Mr. Henon and told him  
19 about it. I didn't.

20 BY MR. DURHAM:

21 Q. Did you know Mr. Holton and  
22 Mr. Henon to have a cordial relationship?

23 A. Nope.

24 Q. So you didn't -- you didn't

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1 call Mr. Henon, did you authorize anybody  
2 else to call Mr. Henon to come to the  
3 site?

4 A. I -- nobody asked Mr. Henon  
5 to come to the site that I'm aware of.

6 Q. That wasn't --

7 A. If he came to the site, he  
8 came on his own accord.

9 Q. That wasn't my question. My  
10 question was very simple.

11 Did you authorize someone  
12 else to advise Mr. Henon of what was  
13 going to be happening that day? You've  
14 already testified you didn't, and I  
15 believe you.

16 I'm asking: Did you  
17 authorize someone else, either on that  
18 task force, for lack of a better term, or  
19 from your office to notify Mr. Henon or  
20 his office of your activities?

21 A. Someone on my team might  
22 have given him notice. I mean, city  
23 council asks us for updates on projects  
24 all the time. And periodically, we would

1 get requests from Mr. Henon's office  
2 about the progress since this eviction  
3 took quite a long time in order to come  
4 to fruition.

5 So any one of those phone  
6 calls, someone could have mentioned to  
7 him that we were -- that we had set a  
8 date to go out there. That's common  
9 practice. We have to -- everyone's  
10 supposed to know about -- you know, since  
11 we're coordinating through three  
12 different departments, it's not a -- it's  
13 not a secret, you know, what we're doing.

14 As a matter of fact, Mr.  
15 Holton knew we were going to be out  
16 there. So anybody could have been known  
17 that we were going to be out there. It  
18 wasn't a secret by any stretch of the  
19 imagination.

20 I might have mentioned it to  
21 Mr. Henon in passing when he asked anyone  
22 else on the team, L&I or the police  
23 department might have mentioned it to  
24 his -- either Mr. Henon or his staff.

1 Most of my contact with Mr.  
2 Henon's office was through his staff  
3 members. I only had maybe two or three  
4 conversations with him during that whole  
5 time period.

6 Q. And "the whole time period"  
7 being what?

8 A. 2012 through 2018.

9 Q. What survey district or --  
10 was this property located in?

11 A. This is the 5th Survey  
12 District, which located on Rising Sun  
13 Avenue.

14 Q. And I'm not familiar with  
15 the City of Philadelphia election, so I'm  
16 going to ask the question. I have no  
17 idea what the answer might be.

18 Is Mr. Henon -- does he  
19 represent the 5th Survey District as part  
20 of his district or does he represent the  
21 entire city, do you know?

22 A. He has a specific district.  
23 His council district. The boundaries of  
24 the 5th Survey District actually are

1 parts of several different council  
2 districts. This particular location is  
3 within Councilman Henon's district.  
4 Q. And Councilman Henon, are  
5 you aware that he had made public  
6 statements about getting rid of junkyards  
7 in that area?

8 A. Yes. And there's a --  
9 there's actually a junkyard task force.

10 Q. Are you on that task force?

11 A. We are a part of it.

12 We support the task force  
13 with information. The survey districts  
14 supply the task force with property line  
15 information when they do junkyard  
16 inspections, and this is a been in place  
17 for years and years.

18 And they do -- you know,  
19 they handle problem junkyards, illegal  
20 junkyards, do inspections, respond to  
21 complaints regarding junkyards. And I  
22 believe there is some part of council  
23 that has a committee on -- that covers  
24 something like that.

1 Mr. Henon happened to be, at  
2 the time, to be part on Streets and  
3 Services Committee of city council.

4 Q. So that would include your  
5 department?

6 A. It includes aspects. We  
7 don't report to them, but that's the --  
8 that's the city council committee that  
9 hears ordinances and motions and, you  
10 know, addresses certain aspects.

11 When an ordinance comes into  
12 council, instead of going to the full  
13 council, its goes to a specific committee  
14 first for review. That committee then  
15 has their own hearings on that particular  
16 topic because we have so many ordinances  
17 coming in at any one time. You can't  
18 have one committee to go to them all, so  
19 they break them up into different  
20 categories.

21 And Mr. Henon was on the  
22 Streets and Services, which handles a lot  
23 of Streets Department ordinances, but also  
24 other types of ordinances.

1 Q. You're aware that Mr. Henon  
2 is under federal investigation -- was  
3 indicted. You're aware of that?

4 MS. CLAIBORNE: Objection.

5 MR. DURHAM: You can answer.

6 THE WITNESS: I did not know  
7 he was indicted. I try to stay  
8 out of politics and stuff like  
9 that, but...

10 BY MR. DURHAM:

11 Q. Were you contacted by the  
12 FBI in connection to Mr. Henon?


13 A. I have not been --

14 MS. CLAIBORNE: Objection to  
15 the extent that it calls for  
16 information relating to ongoing  
17 criminal investigation. That's  
18 privileged information and I'm  
19 instructing you not to answer that  
20 question.

21 MR. DURHAM: It's not  
22 privileged information unless he's  
23 getting indicted also.

24 MS. CLAIBORNE: That's not

1 correct. That's absolutely not  
 2 correct. If you want to go to  
 3 Court on that, have a field day.  
 4 MR. DURHAM: We can.  
 5 I have no objection going to  
 6 the Court on that or any other  
 7 issue.  
 8 MS. CLAIBORNE: Okay. Move  
 9 along, please.  
 10 BY MR. DURHAM:  
 11 Q. Has the FBI indicated to you  
 12 that you're a target?  
 13 A. I have not had any  
 14 communications with the FBI in my entire  
 15 life.  
 16 MR. DURHAM: Thank you.  
 17 I have no further questions  
 18 for you. I appreciate your time  
 19 and your answering all the  
 20 questions that I asked.  
 21 - - -  
 22 (Deposition was concluded at  
 23 12:02 p.m.)  
 24

1 CERTIFICATION  
 2  
 3  
 4  
 5  
 6 I, Emily Andreasen, certify that  
 7 the witness was duly sworn by me and that  
 8 the deposition is a true and accurate  
 9 record of the testimony given by the  
 10 witness.  
 11  
 12  
 13  
 14   
 15 \_\_\_\_\_  
 16 Emily Andreasen  
 17 Court Reporter and Notary Public  
 18 Dated:  
 19  
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